

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554**

In the Matter of)	
)	
INQUIRY CONCERNING THE DEPLOYMENT)	
OF ADVANCED TELECOMMUNICATIONS)	
CAPABILITY TO ALL AMERICANS IN A)	
REASONABLE AND TIMELY FASHION AND)	
POSSIBLE STEPS TO ACCELERATE SUCH)	GN Docket 09-137
DEPLOYMENT PURSUANT TO SECTION 706)	
OF THE TELECOMMUNICATIONS ACT OF 1996,)	
AS AMENDED BY THE BROADBAND DATA)	
IMPROVEMENT ACT)	
 A NATIONAL BROADBAND PLAN)	GN Docket 09-51
FOR OUR FUTURE)	
)	
 INTERNATIONAL COMPARISON AND SURVEY)	
REQUIREMENTS IN THE BROADBAND DATA)	GN Docket 09-47
IMPROVEMENT ACT)	

**REPLY COMMENTS OF THE
INDEPENDENT TELEPHONE & TELECOMMUNICATIONS ALLIANCE
PN NBP #1 (DA 09-1842)**

The Independent Telephone & Telecommunications Alliance (ITTA) submits these reply comments in the above-captioned proceeding, pursuant to Public Notice DA 09-1842.¹ ITTA is an alliance of mid-size telephone companies that collectively serve approximately 30 million access lines in 44 states, and offer subscribers a broad range of high-quality wireline and wireless voice, data, Internet, and video service areas. ITTA members have, in aggregate, deployed broadband to approximately 85% of their

¹ "Comment Sought on Defining 'Broadband,'" FCC Public Notice DA 09-1842 (Aug. 20, 2009).

customers, and support a National Broadband Plan (NBP) that will facilitate the establishment and continued evolution of networks that enable maximum capacity, reliability, security, and scalability. As the Commission has determined, a first step in crafting an NBP must be the definition of the term “broadband” as used in the NBP.

1. FORM, CHARACTERISTICS, AND PERFORMANCE INDICATORS

(a) The Form That a Definition of Broadband Should Take

As the Commission defines “broadband,” it should adhere to several principles. In the first instance, the definition should be technology neutral. A single definition of broadband should apply to all types of broadband, without regard to the technology by which that service is provided. Policymakers should chiefly be concerned foremost with whether a particular provider provides a specified level of online service, as that level of service may be defined. Modifying the definition of broadband based upon whether it is delivered by copper, fiber, satellite, or mobile wireless could skew public funding decisions in favor of some technologies over others, if technology-specific definitions are used to determine eligibility for broadband deployment funds. The government’s primary focus should be on direct measures of a consumer’s broadband experience, rather than the technology used to offer that experience.

Second, the definition should be service-area neutral. ITTA has championed previously the proposition that the NBP should ensure that consumers in rural areas enjoy access to robust networks and services. The creation of “urban,” “rural,” and “suburban” definitions of broadband could strip away incentives to deploy robust networks in rural areas of the Nation.

Third, the general definition of “broadband” should not be applied to determine whether a broadband deployment project may be eligible for support; rather, when

determining whether a project is eligible for Federal support, the Commission must determine whether that deployment will support the core functions articulated by policymakers. Service of a particular basic capacity or speed may well be defined as “broadband” with respect to defining served areas, for example, while only broadband of greater capability should be supported by Federal programs. In particular, the Commission should look to support a level of service that enables user applications like those necessary to realize the type of broadband experience described recently by Chairman Julius Genachowski:

A small business in Gettysburg will be able to connect and compete with businesses in Pittsburgh, or even Johannesburg.

An elderly person in Georgia will be able to get remote medical monitoring from a specialist at Georgetown, better health care at lower cost.

A struggling eighth grader in Columbia, South Carolina, will be able to get tutoring from a student at Columbia University.

And parents in Baltimore will be able to connect with live video to their son or daughter serving in Baghdad or Afghanistan.”²

At the same time, the Commission should consider cautiously recommendations of expansive broadband capacity service that are proposed by non-provider entities, and without a workable recommendation on how the costs of such deployment would be met. The Commission should focus more on the comments of parties that have invested significant capital in broadband deployment, and that have developed technology capable of leveraging existing assets.

² Remarks of Chairman Julius Genachowski to the Staff of the Federal Communications Commission (Jun. 30, 2009) (http://hraunfoss.fcc.gov/edocs_public/attachmatch/DOC-291834A1.pdf (last viewed Jul. 14, 2009 13:50)).

(b) Whether To Develop a Single Definition, or Multiple Definitions

Broadband definitions should be based on the policy context. For example, the broadband definition for mapping and data gathering should be more expansive than the broadband definition for “unserved” because policy makers in the first instance need to examine all geographic areas and the level of service currently provided. The Commission’s current practices with regard to Form 477 reporting (using tiered classifications) is representative of this type of approach. If policy makers determine certain levels of service qualify as “unserved,” then the network upgrades that are necessary to move those areas to a level of service that meets the definition applicable to the NBP can be identified. In that event, where the contextual definition is aimed at applying support for an unserved area, a higher speed broadband definition would be appropriate. Standards should not be relaxed on the basis of technology, however, as described above. A single definition of broadband will ensure that services, technologies, and deployments can be compared on a neutral and rational basis.

(c) Whether an Application-Based Approach to Defining Broadband Would Work, and How Such an Approach could be Expressed in Terms of Performance Indicators

Performance indicators should address deployments within the context of their eligibility for Federal support programs. Applications are relevant to the extent that networks eligible for Federal support should be capable of supporting core applications.

(d) The Key Characteristics and Specific Performance Indicators That Should Be Used to Define Broadband

Inasmuch as “speed” becomes the unit of measurement when defining networks’ abilities to support core applications, the Commission should establish a customer-focused performance metric that provides the best possible indication of average

downstream throughput performance offered to end-users over the provider's network. Speeds should be measured at a time when the average subscriber is most likely to use the broadband network (*e.g.*, between 3:00 PM and 6:00 PM).

(e) What Segment(s) of the Network Each Performance Indicator Should Measure, Such as the Local Access Link to the End User, or an End-To-End Path

The Commission should measure performance at provider facilities that are within the carrier's control, rather than at the end-user locations where performance may be affected by circumstances beyond the provider's control.

(f) How Factors Such As Latency, Jitter, Traffic Loading, Diurnal Patterns, Reliability, And Mobility Should Specifically Be Taken Into Account

Performance standards for publicly funded broadband deployment projects should contemplate whether broadband providers will be capable of supporting the core applications desired and demanded by users. The goal of the NBP should be to deploy networks that support core applications in all regions of the Nation on a technology-neutral basis, with performance characteristics that provide optimal end-user experience.

(g) Whether Different Performance Indicators or Definitions Should Be Developed Based on Technological or Other Distinctions, Such as Mobility or the Provision of the Service over a Wired or Wireless Network

The Commission should adhere to a technology-neutral approach in order to enable "apple to apple" comparisons among technologies. This will ensure that the consumer-centric focus of the NBP, specifically, the goal of ensuring networks capable of supporting applications such as those described by Chairman Genachowski, is maintained. The promotion of networks unable to support those types of applications (and others as may be identified) robs the NBP of purpose.

(h) The Feasibility and Verifiability of Measuring Different Performance Indicators

Technical verification of carrier networks may be achieved by reliance upon broadband provider testing at facilities internal to the provider's network. Broadband provider testing could be supported by self-certification. Broadband provider testing ensures that equipment that may be available for testing is tuned specifically to the provider's network and thereby results in reports that depict accurately the nature of service provided on that network. By contrast, testing conducted by the Commission or third parties implicates issues related to technical feasibility, as well as proprietary data that may be generated by or otherwise emerge in such testing. Broadband provider certifications provide sufficient assurance that the reported results are complete and accurate.

3. UPDATES

(a) What Ongoing Process Should Be Put in Place to Update the Definition, Particularly the Threshold Levels

The Commission should conduct periodic market and technical reviews of applications commonly used. This will ensure that the consumer-centric focus of the NBP is preserved, and that networks in all regions of the Nation evolve to meet changing consumer demands and advances in developing technology.

(b) How Often Should Such Updates Should Occur

Updates should occur on a rolling basis that results in re-establishment of thresholds no sooner than every three years and no later than every fifth year. Greater frequency will skew markets' ability to respond appropriately to regulatory climates; greater infrequency will result in regulatory standards that are too outpaced by technical development.

(c) What Criteria Should Be Used To Adjust Thresholds over Time

Reviews of core applications and the speeds, prices, adoption rates, etc., associated with them should occur within the context of the overall review.

(d) How Modifications Over Time to The Definition Will Affect the Commission's Ability to Collect and Publish Meaningful Data on Broadband Deployment and Adoption

Broadband is and will continue to be a dynamic technology, and pertinent definitions will evolve over time. Users of data published by the Commission will by necessity accept that resultant reports are current as of last date that data was collected - but, by maintaining an active staff dedicated to review of services, applications, and technologies, the Commission may be able to condense the time between data collection, analysis, and publication, providing the public with more meaningful and timely information on an on-going basis.

The NBP should incorporate a technology-neutral, consumer-centric focus that ensures that availability of robust networks throughout the Nation, and incorporates performance metrics that are updated regularly in order to accommodate evolving technological developments and resultant consumer demands.

Respectfully submitted,

s/ Joshua Seidemann

Joshua Seidemann

Vice President, Regulatory Affairs

Independent Telephone & Telecommunications Alliance

1101 Vermont Avenue, NW, Suite 501

Washington, DC 20005

202-898-1520

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